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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

17 MARIA DEL CARMEN FLORES, an
18 individual,

19 Plaintiff,

20 |

21 CITY OF SANTA MONICA, a
22 municipality; STEVEN HOLLOWELL,
23 individually and in his official capacity;
24 CARLOS MADRID, individually and
25 in his official capacity; MAURICE
COCHEE, individually and in his
official capacity; CHIEF RAMON
BATISTA, individually and in his
official capacity,

26 || Defendants

Case No. 2:23-cv-00043-SB-PD

*[District Judge, Stanley Blumenfeld, Jr.;
Magistrate Judge, Patricia Donahue]*

STIPULATED PROTECTIVE ORDER RE CONFIDENTIAL DOCUMENTS

28 | 111

1 **TO THE HONORABLE COURT:**

2 By and through their counsel of record in this action, plaintiff MARIA DEL
 3 CARMEN FLORES, an individual, ("Plaintiff") and defendants CITY OF SANTA
 4 MONICA, STEVEN HOLLOWELL, CARLOS MADRID, MAURICE COCHEE,
 5 and CHIEF RAMON BATISTA (hereinafter "Defendants") – the parties – hereby
 6 stipulate for the purpose of jointly requesting that the honorable Court enter a
 7 protective order re confidential documents in this matter [and pursuant to Fed. R. Civ.
 8 P. 5.2, 7, and 26, as well as U.S. Dist. Ct., S.D. Cal., Local Rules 7-1 and 52-4.1; and
 9 any applicable Orders of the Court] – as follows:

10 1. **A. PURPOSES AND LIMITATIONS**

11 Discovery in this action is likely to involve production of confidential,
 12 proprietary, or private information for which special protection from public
 13 disclosure and from use for any purpose other than prosecuting this litigation may be
 14 warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter
 15 the following Stipulated Protective Order. The parties acknowledge that this Order
 16 does not confer blanket protections on all disclosures or responses to discovery and
 17 that the protection it affords from public disclosure and use extends only to the
 18 limited information or items that are entitled to confidential treatment under the
 19 applicable legal principles.

20 The parties further acknowledge, as set forth below, that this Stipulation and
 21 Order creates no entitlement to file confidential information under seal, except to the
 22 extent specified herein; Central District Local Rules 79-5.1 and 79-5.2 set(s) forth the
 23 procedures that must be followed and reflects the standards that will be applied when
 24 a party seeks permission from the court to file material under seal.

25 Nothing in this Stipulation or associated Order shall be construed so as to
 26 require or mandate that any Party disclose or produce privileged information or
 27 records that could be designated as Confidential Documents/Protected Material
 28 hereunder.

1 B. GOOD CAUSE STATEMENT

2 Defendants contend that there is good cause and a particularized need for a
 3 protective order to preserve the interests of confidentiality and privacy in peace officer
 4 personnel file records and associated investigative or confidential records for the
 5 following reasons.

6 First, Defendants contend that peace officers have a federal privilege of privacy
 7 in their personnel file records: a reasonable expectation of privacy therein that is
 8 underscored, specified, and arguably heightened by the *Pitchess* protective procedure
 9 of California law. *See Sanchez v. Santa Ana Police Dept.*, 936 F.2d 1027, 1033-1034
 10 (9th Cir. 1990); *Hallon v. City of Stockton*, 2012 U.S. Dist. LEXIS 14665, *2-3, 12-
 11 13 (E.D. Cal. 2012) (concluding that “while “[f]ederal law applies to privilege based
 12 discovery disputes involving federal claims,” the “state privilege law which is
 13 consistent with its federal equivalent significantly assists in applying [federal]
 14 privilege law to discovery disputes”); *Soto v. City of Concord*, 162 F.R.D. 603, 613
 15 n. 4, 616 (N.D. Cal. 1995) (peace officers have constitutionally-based “privacy rights
 16 [that] are not inconsequential” in their police personnel records); *cf.* Cal. Penal Code
 17 §§ 832.7, 832.8; Cal. Evid. Code §§ 1040-1047. Defendants further contend that
 18 uncontrolled disclosure of such personnel file information can **threaten the safety of**
 19 **non-party witnesses, officers, and their families/associates.**

20 Second, Defendants contend that municipalities and law enforcement agencies
 21 have federal deliberative-executive process privilege, federal official information
 22 privilege, federal law enforcement privilege, and federal attorney-client privilege
 23 (and/or attorney work product protection) interests in the personnel files of their peace
 24 officers – particularly as to those portions of peace officer personnel files that contain
 25 critical self-analysis, internal deliberation/decision-making or evaluation/analysis, or
 26 communications for the purposes of obtaining or rendering legal advice or analysis –
 27 potentially including but not limited to evaluative/analytical portions of Internal
 28 Affairs type records or reports, evaluative/analytical portions of supervisory records

1 or reports, and/or reports prepared at the direction of counsel, or for the purpose of
 2 obtaining or rendering legal advice. *See Sanchez*, 936 F.2d at 1033-1034; *Maricopa*
 3 *Audubon Soc'y v. United States Forest Serv.*, 108 F.3d 1089, 1092-1095 (9th Cir.
 4 1997); *Soto*, 162 F.R.D. at 613, 613 n. 4; *Kelly v. City of San Jose*, 114 F.R.D. 654,
 5 668-671 (N.D. Cal. 1987); *Tuite v. Henry*, 181 F.R.D. 175, 176-177 (D. D.C. 1998);
 6 *Hamstreet v. Duncan*, 2007 U.S. Dist. LEXIS 89702 (D. Or. 2007); *Admiral Ins. Co.*
 7 *v. United States Dist. Ct.*, 881 F.2d 1486, 1492, 1495 (9th Cir. 1988). Defendants
 8 further contend that such personnel file records are restricted from disclosure by the
 9 public entity's custodian of records pursuant to applicable California law and that
 10 **uncontrolled release is likely to result in needless intrusion of officer privacy;**
 11 **impairment in the collection of third-party witness information and statements**
 12 **and related legitimate law enforcement investigations/interests; and a chilling of**
 13 **open and honest discussion regarding and/or investigation into alleged**
 14 **misconduct that can erode a public entity's ability to identify and/or implement**
 15 **any remedial measures that may be required.**

16 Third, Defendants contend that, since peace officers do not have the same rights
 17 as other private citizens to avoid giving compelled statements, it is contrary to the
 18 fundamental principles of fairness to permit uncontrolled release of officers'
 19 compelled statements. *See generally Lybarger v. City of Los Angeles*, 40 Cal.3d 822,
 20 828-830 (1985); *cf. U.S. Const., amend V.*

21 Accordingly, Defendants contend that, without a protective order preventing
 22 such, production of confidential records in the case can and will likely substantially
 23 impair and harm defendant public entity's interests in candid self-critical analysis,
 24 frank internal deliberations, obtaining candid information from witnesses, preserving
 25 the safety of witnesses, preserving the safety of peace officers and peace officers'
 26 families and associates, protecting the privacy officers of peace officers, and
 27 preventing pending investigations from being detrimentally undermined by
 28 publication of private, sensitive, or confidential information – as can and often does

1 result in litigation.

2 Plaintiff agrees that there is Good Cause for a Protective Order so as to preserve
3 the respective interests of the parties without the need to further burden the Court with
4 such issues. Specifically, the parties jointly contend that, absent this Stipulation and
5 its associated Protective Order, the parties' respective privilege interests may be
6 impaired or harmed, and that this Stipulation and its associated Protective Order may
7 avoid such harm by permitting the parties to facilitate discovery with reduced risk that
8 privileged and/or sensitive/confidential information will become matters of public
9 record.

10 The parties jointly contend that there is typically a particularized need for
11 protection as to any medical or psychotherapeutic records and autopsy photographs,
12 because of the privacy interests at stake therein. Because of these sensitive interests,
13 a Court Order should address these documents rather than a private agreement
14 between the parties.

15 The parties therefore stipulate that there is Good Cause for, and hereby jointly
16 request that the honorable Court issue/enter, a Protective Order re confidential
17 documents consistent with the terms and provisions of this Stipulation. However,
18 the entry of a Protective Order by the Court pursuant to this Stipulation shall not be
19 construed as any ruling by the Court on the aforementioned legal statements or
20 privilege claims in this section (§ 1), nor shall this section be construed as part of any
21 such Court Order.

22 **C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER SEAL**

23 The parties further acknowledge, as set forth in Section 12.3, below, that this
24 Stipulated Protective Order does not entitle them to file confidential information
25 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed and
26 the standards that will be applied when a party seeks permission from the court to
27 file material under seal.

28 There is a strong presumption that the public has a right of access to judicial

1 proceedings and records in civil cases. In connection with non-dispositive motions,
 2 good cause must be shown to support a filing under seal. See Kamakana v. City and
 3 County of Honolulu, 447 F.3d 1172, 1176 (9th Cir. 2006), Phillips v. Gen. Motors
 4 Corp., 307 F.3d 1206, 1210-11 (9th Cir. 2002), Makar-Welbon v. Sony Electrics,
 5 Inc., 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders require
 6 good cause showing), and a specific showing of good cause or compelling reasons
 7 with proper evidentiary support and legal justification, must be made with respect to
 8 Protected Material that a party seeks to file under seal. The parties' mere designation
 9 of Disclosure or Discovery Material as CONFIDENTIAL does not—without the
 10 submission of competent evidence by declaration, establishing that the material
 11 sought to be filed under seal qualifies as confidential, privileged, or otherwise
 12 protectable—constitute good cause.

13 Further, if a party requests sealing related to a dispositive motion or trial, then
 14 compelling reasons, not only good cause, for the sealing must be shown, and the
 15 relief sought shall be narrowly tailored to serve the specific interest to be protected.
 16 See Pintos v. Pacific Creditors Ass'n, 605 F.3d 665, 677-79 (9th Cir. 2010). For each
 17 item or type of information, document, or thing sought to be filed or introduced under
 18 seal in connection with a dispositive motion or trial, the party seeking protection
 19 must articulate compelling reasons, supported by specific facts and legal
 20 justification, for the requested sealing order. Again, competent evidence supporting
 21 the application to file documents under seal must be provided by declaration.

22 Any document that is not confidential, privileged, or otherwise protectable in
 23 its entirety will not be filed under seal if the confidential portions can be redacted. If
 24 documents can be redacted, then a redacted version for public viewing, omitting only
 25 the confidential, privileged, or otherwise protectable portions of the document, shall
 26 be filed. Any application that seeks to file documents under seal in their entirety
 27 should include an explanation of why redaction is not feasible.

28

1 2. DEFINITIONS

2 2.1 Action: this pending federal law suit].

3 2.2 Challenging Party: a Party or Non-Party that challenges
4 the designation of information or items under this Order.

5 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
6 how it is generated, stored or maintained) or tangible things that qualify for
7 protection under Federal Rule of Civil Procedure 26(c), and as specified above in the
8 Good Cause Statement.

9 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
10 their support staff).

11 2.5 Designating Party: a Party or Non-Party that designates information or
12 items that it produces in disclosures or in responses to discovery as
13 “CONFIDENTIAL.”

14 2.6 Disclosure or Discovery Material: all items or information, regardless
15 of the medium or manner in which it is generated, stored, or maintained (including,
16 among other things, testimony, transcripts, and tangible things), that are produced or
17 generated in disclosures or responses to discovery in this matter.

18 2.7 Expert: a person with specialized knowledge or experience in a matter
19 pertinent to the litigation who has been retained by a Party or its counsel to serve as
20 an expert witness or as a consultant in this Action.

21 2.8 House Counsel: attorneys who are employees of a party to this Action.
22 House Counsel does not include Outside Counsel of Record or any other outside
23 counsel.

24 2.9 Non-Party: any natural person, partnership, corporation, association, or
25 other legal entity not named as a Party to this action.

26 2.10 Outside Counsel of Record: attorneys who are not employees of a party
27 to this Action but are retained to represent or advise a party to this Action and have
28 appeared in this Action on behalf of that party or are affiliated with a law firm which

1 has appeared on behalf of that party, and includes support staff.

2 2.11 Party: any party to this Action, including all of its officers, directors,
 3 employees, consultants, retained experts, and Outside Counsel of Record (and their
 4 support staffs).

5 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
 6 Discovery Material in this Action.

7 2.13 Professional Vendors: persons or entities that provide litigation
 8 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
 9 demonstrations, and organizing, storing, or retrieving data in any form or medium)
 10 and their employees and subcontractors.

11 2.14 Protected Material: any Disclosure or Discovery Material that is
 12 designated as “CONFIDENTIAL.”

13 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
 14 from a Producing Party.

15 3. SCOPE

16 The protections conferred by this Stipulation and Order cover not only
 17 Protected Material (as defined above), but also (1) any information copied or
 18 extracted from Protected Material; (2) all copies, excerpts, summaries, or
 19 compilations of Protected Material; and (3) any testimony, conversations, or
 20 presentations by Parties or their Counsel that might reveal Protected Material.

21 However, the protections conferred by this Stipulation and its associated Order
 22 do *not* cover the following information: (a) any information that is in the public
 23 domain at the time of disclosure to a Receiving Party or becomes part of the public
 24 domain after its disclosure to a Receiving Party as a result of publication not involving
 25 a violation of this Order, including becoming part of the public record through trial or
 26 otherwise; and (b) any information known to the Receiving Party prior to the
 27 disclosure or obtained by the Receiving Party after the disclosure from a source who
 28 obtained the information lawfully and under no obligation of confidentiality to the

1 Designating Party.

2 Except to the extent specified herein (if any), any use of Protected Material at
 3 trial shall not be governed by this Order, but may be governed by a separate
 4 agreement or order.

5 Any use of Protected Material at trial shall be governed by the orders of the
 6 trial judge. This Order does not govern the use of Protected Material at trial.

7 4. DURATION

8 FINAL DISPOSITION of the action is defined as the conclusion of any
 9 appellate proceedings, or, if no appeal is taken, when the time for filing of an appeal
 10 has run. Except as set forth below, the terms of this protective order apply through
 11 FINAL DISPOSITION of the action. The parties may stipulate that they will be
 12 contractually bound by the terms of this agreement beyond FINAL DISPOSITION,
 13 but will have to file a separate action for enforcement of the agreement once all
 14 proceedings in this case are complete.

15 Once a case proceeds to trial, information that was designated as
 16 CONFIDENTIAL or maintained pursuant to this protective order used or introduced
 17 as an exhibit at trial becomes public and will be presumptively available to all
 18 members of the public, including the press, unless compelling reasons supported by
 19 specific factual findings to proceed otherwise are made to the trial judge in advance
 20 of the trial. *See Kamakana*, 447 F.3d at 1180-81 (distinguishing “good cause”
 21 showing for sealing documents produced in discovery from “compelling reasons”
 22 standard when merits-related documents are part of court record). Accordingly, for
 23 such materials, the terms of this protective order do not extend beyond the
 24 commencement of the trial.

25 5. DESIGNATING PROTECTED MATERIAL

26 5.1 Exercise of Restraint and Care in Designating Material for Protection.
 27 Each Party or Non-Party that designates information or items for protection under
 28 this Order must take care to limit any such designation to specific material that

1 qualifies under the appropriate standards. The Designating Party must designate for
2 protection only those parts of material, documents, items, or oral or written
3 communications that qualify so that other portions of the material, documents, items,
4 or communications for which protection is not warranted are not swept unjustifiably
5 within the ambit of this Order.

6 Mass, indiscriminate, or routinized designations are prohibited. Designations
7 that are shown to be clearly unjustified or that have been made for an improper
8 purpose (e.g., to unnecessarily encumber the case development process or to impose
9 unnecessary expenses and burdens on other parties) may expose the Designating
10 Party to sanctions.

11 If it comes to a Designating Party's attention that information or items that it
12 designated for protection do not qualify for protection, that Designating Party must
13 promptly notify all other Parties that it is withdrawing the inapplicable designation.

14 **5.2 Manner and Timing of Designations**. Except as otherwise provided in
15 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
16 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
17 under this Order must be clearly so designated before the material is disclosed or
18 produced.

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (e.g., paper or electronic
21 documents, but excluding transcripts of depositions or other pretrial or trial
22 proceedings), that the Producing Party affix at a minimum, the legend
23 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
24 contains protected material. If only a portion or portions of the material on a page
25 qualifies for protection, the Producing Party also must clearly identify the protected
26 portion(s) (e.g., by making appropriate markings in the margins).

27 A Party or Non-Party that makes original documents available for inspection
28 need not designate them for protection until after the inspecting Party has indicated

1 which documents it would like copied and produced. During the inspection and
2 before the designation, all of the material made available for inspection shall be
3 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
4 documents it wants copied and produced, the Producing Party must determine which
5 documents, or portions thereof, qualify for protection under this Order. Then, before
6 producing the specified documents, the Producing Party must affix the
7 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
8 portion or portions of the material on a page qualifies for protection, the Producing
9 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
10 markings in the margins).

23 The court reporter must affix to each such transcript page containing
24 Protected Material the legend "CONFIDENTIAL," as instructed by the Producing
25 Party.

26 (c) for information produced in some form other than documentary and for
27 any other tangible items, that the Producing Party affix in a prominent place on the
28 exterior of the container or containers in which the information is stored the legend

1 “CONFIDENTIAL.” If only a portion or portions of the information warrants
2 protection, the Producing Party, to the extent practicable, shall identify the protected
3 portion(s).

4 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
5 failure to designate qualified information or items does not, standing alone, waive
6 the Designating Party’s right to secure protection under this Order for such material.

7 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
9 designation of confidentiality at any time that is consistent with the Court’s
10 Scheduling Order.

11 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
12 resolution process under Local Rule 37.1 et seq.

13 6.3 The burden of persuasion in any such challenge proceeding shall be on
14 the Designating Party. Frivolous challenges, and those made for an improper purpose
15 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
16 expose the Challenging Party to sanctions. Unless the Designating Party has waived
17 or withdrawn the confidentiality designation, all parties shall continue to afford the
18 material in question the level of protection to which it is entitled under the Producing
19 Party’s designation until the Court rules on the challenge.

20 7. ACCESS TO AND USE OF PROTECTED MATERIAL

21 7.1 Basic Principles. A Receiving Party may use Protected Material that is
22 disclosed or produced by another Party or by a Non-Party in connection with this
23 Action only for prosecuting, defending, or attempting to settle this Action. Such
24 Protected Material may be disclosed only to the categories of persons and under the
25 conditions described in this Order. When the Action has been terminated, a
26 Receiving Party must comply with the provisions of section 13 below (FINAL
27 DISPOSITION).

1 Protected Material must be stored and maintained by a Receiving Party at a
2 location and in a secure manner that ensures that access is limited to the persons
3 authorized under this Order.

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
5 otherwise ordered by the court or permitted in writing by the Designating Party, a
6 Receiving Party may disclose any information or item designated
7 “CONFIDENTIAL” only to:

8 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
9 as employees of said Outside Counsel of Record to whom it is reasonably necessary
10 to disclose the information for this Action;

11 (b) the officers, directors, and employees (including House Counsel) of the
12 Receiving Party to whom disclosure is reasonably necessary for this Action;

13 (c) Experts (as defined in this Order) of the Receiving Party to whom
14 disclosure is reasonably necessary for this Action and who have signed the
15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 (d) the court and its personnel;

17 (e) court reporters and their staff;

18 (f) professional jury or trial consultants, mock jurors, and Professional
19 Vendors to whom disclosure is reasonably necessary for this Action and who have
20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 (g) the author or recipient of a document containing the information or a
22 custodian or other person who otherwise possessed or knew the information;

23 (h) during their depositions, witnesses ,and attorneys for witnesses, in the
24 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
25 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will
26 not be permitted to keep any confidential information unless they sign the
27 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
28 agreed by the Designating Party or ordered by the court. Pages of transcribed

1 deposition testimony or exhibits to depositions that reveal Protected Material may
2 be separately bound by the court reporter and may not be disclosed to anyone except
3 as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

6 7.3. Notice of Confidentiality. Prior to producing or disclosing Protected
7 Material/Confidential Documents to persons to whom this Stipulation and its Order
8 permits disclosure or production (see section 8.2, *supra*), a Receiving Party shall
9 provide a copy of this Stipulation and Order to such persons so as to put such persons
10 on notice as to the restrictions imposed upon them herein: except that, for court
11 reporters, Professional Vendors, and for witnesses being provided with Protected
12 Material during a deposition, it shall be sufficient notice for Counsel for the Receiving
13 Party to give the witness a verbal admonition (on the record, for witnesses) regarding
14 the provisions of this Stipulation and its Order and such provisions' applicability to
15 specified Protected Material at issue.

16 7.4. Reservation of Rights. Nothing in this Stipulation and Order shall be
17 construed so as to require any Producing Party to designate any records or materials
18 as “CONFIDENTIAL.” Nothing in this Stipulation and Order shall be construed so
19 as to prevent the admission of Protected Material into evidence at the trial of this
20 action, or in any appellate proceedings for this action, solely on the basis that such
21 Disclosure or Discovery Material has been designated as Protected
22 Material/Confidential Documents. Notwithstanding the foregoing, nothing in this
23 Stipulation and Order shall be construed as a waiver of any privileges or of any rights
24 to object to the use or admission into evidence of any Protected Material in any
25 proceeding; nor shall anything herein be construed as a concession that any privileges
26 asserted or objections made are valid or applicable. Nothing in this Stipulation and
27 Order shall be construed so as to prevent the Designating Party (or its Counsel or
28 custodian of records) from having access to and using Protected Material designated

1 by that Party in the manner in which such persons or entities would typically use such
 2 materials in the normal course of their duties or profession – except that the waiver of
 3 confidentiality provisions shall apply (see section 6.4(c), *supra*).

4 7.5. Requirement to File Confidential Documents Under Seal. Confidential
 5 Documents may be submitted in all law and motion proceedings before the Court if
 6 done so under seal pursuant to Federal Rules of Civil Procedure 5.2 and 26 and/or
 7 United States District Court, Central District of California Local Rules 79-5.1 and 79-
 8 5.2 (as applicable) and pursuant to the provisions of this Stipulation and any
 9 associated Order. If any Receiving Party attaches any Confidential Documents to any
 10 pleading, motion, or other paper to be filed, lodged, or otherwise submitted to the
 11 Court, such Confidential Document(s) shall be filed/lodged under seal pursuant to
 12 Federal Rules of Civil Procedure 5.2 and 26 and/or United States District Court,
 13 Central District of California Local Rules 79-5.1 and 79-5.2 to the extent applicable.

14 However, this paragraph (¶ 7.5) shall not be construed so as to prevent a
 15 Designating Party or counsel from submitting, filing, lodging, or publishing any
 16 document it has previously designated as a Confidential Document without
 17 compliance with this paragraph's requirement to do so under seal (i.e., a producing-
 18 disclosing party or counsel may submit or publish its own Confidential Documents
 19 without being in violation of the terms of this Stipulation and its Protective Order).

20 Furthermore, a Receiving Party shall be exempted from the requirements of
 21 this paragraph as to any specifically identified Confidential Document(s) where –
 22 prior to the submission or publication of the Confidential Document(s) at issue – the
 23 Designating Party of such specifically identified Confidential Document(s) has
 24 waived/withdrawn the protections of this Stipulation and its Order (pursuant to
 25 paragraph 6.4, *supra*).

26 A Receiving Party shall also be exempt from the sealing requirements of this
 27 paragraph (¶ 7.5) where the Confidential Documents/Protected Material at issue is/are
 28 **not** documents, records, or information regarding or incorporating:

1 (1) private, personal information contained in peace officer personnel files
2 (such as social security numbers, driver's license numbers or comparable personal
3 government identification numbers, residential addresses, compensation or pension
4 or personal property information, credit card numbers or credit information, dates of
5 birth, tax records and information, information related to the identity of an officer's
6 family members or co-residents, and comparable personal information about the
7 officer or his family);

10 (3) the medical records or records of psychiatric or psychological treatment
11 of any peace officer or party to this action.

12 Nothing in this paragraph shall be construed to bind the Court or its authorized
13 staff so as to limit or prevent the publication of any Confidential Documents to the
14 jury or factfinder, at the time of trial of this matter, where the Court has deemed such
15 Confidential Documents to be admissible into evidence.

16 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
17 IN OTHER LITIGATION

18 If a Party is served with a subpoena or a court order issued in other litigation
19 that compels disclosure of any information or items designated in this Action as
20 "CONFIDENTIAL," that Party must:

27 (c) cooperate with respect to all reasonable procedures sought to be pursued
28 by the Designating Party whose Protected Material may be affected.

1 If the Designating Party timely seeks a protective order, the Party served
 2 with the subpoena or court order shall not produce any information designated in this
 3 action as “CONFIDENTIAL” before a determination by the court from which the
 4 subpoena or order issued, unless the Party has obtained the Designating Party’s
 5 permission. The Designating Party shall bear the burden and expense of seeking
 6 protection in that court of its confidential material and nothing in these provisions
 7 should be construed as authorizing or encouraging a Receiving Party in this Action
 8 to disobey a lawful directive from another court.

9 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT
 10 TO BE PRODUCED IN THIS LITIGATION

11 (a) The terms of this Order are applicable to information produced by a
 12 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
 13 produced by Non-Parties in connection with this litigation is protected by the
 14 remedies and relief provided by this Order. Nothing in these provisions should be
 15 construed as prohibiting a Non-Party from seeking additional protections.

16 (b) In the event that a Party is required, by a valid discovery request, to
 17 produce a Non-Party’s confidential information in its possession, and the Party is
 18 subject to an agreement with the Non-Party not to produce the Non-Party’s
 19 confidential information, then the Party shall:

20 (1) promptly notify in writing the Requesting Party and the Non-Party
 21 that some or all of the information requested is subject to a confidentiality agreement
 22 with a Non-Party;

23 (2) promptly provide the Non-Party with a copy of the Stipulated
 24 Protective Order in this Action, the relevant discovery request(s), and a reasonably
 25 specific description of the information requested; and

26 (3) make the information requested available for inspection by the
 27 Non-Party, if requested.

MANNING & KASS
 ELLROD, RAMIREZ, TRESTER LLP
 ATTORNEYS AT LAW

9 | 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

18 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
19 PROTECTED MATERIAL

20 When a Producing Party gives notice to Receiving Parties that certain
21 inadvertently produced material is subject to a claim of privilege or other protection,
22 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
23 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
24 may be established in an e-discovery order that provides for production without prior
25 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
26 parties reach an agreement on the effect of disclosure of a communication or
27 information covered by the attorney-client privilege or work product protection, the
28 parties may incorporate their agreement in the stipulated protective order submitted

1 to the court.

2 **12. MISCELLANEOUS**

3 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
4 person to seek its modification by the Court in the future.

5 12.2 Right to Assert Other Objections. By stipulating to the entry of this
6 Protective Order no Party waives any right it otherwise would have to object to
7 disclosing or producing any information or item on any ground not addressed in this
8 Stipulated Protective Order. Similarly, no Party waives any right to object on any
9 ground to use in evidence of any of the material covered by this Protective Order.

10 12.3 Filing Protected Material. A Party that seeks to file under seal any
11 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
12 only be filed under seal pursuant to a court order authorizing the sealing of the
13 specific Protected Material at issue. If a Party's request to file Protected Material
14 under seal is denied by the court, then the Receiving Party may file the information
15 in the public record unless otherwise instructed by the court.

16 **13. FINAL DISPOSITION**

17 Unless otherwise ordered or agreed in writing by the Producing Party, within
18 thirty (30) days after the final termination of this action (defined as the dismissal or
19 entry of judgment by the above named court, or if an appeal is filed, the disposition
20 of the appeal), upon written request by the Producing Party, each Receiving Party
21 must return all Protected Material to the Producing Party – whether retained by the
22 Receiving Party or its Counsel, Experts, Professional Vendors, agents, or any non-
23 party to whom the Receiving Party produced or shared such records or information.

24 As used in this subdivision, “all Protected Material” includes all copies,
25 abstracts, compilations, summaries or any other form of reproducing or capturing any
26 of the Protected Material, regardless of the medium (hardcopy, electronic, or
27 otherwise) in which such Protected Material is stored or retained.

28 In the alternative, at the discretion of the Receiving Party, the Receiving Party

1 may destroy some or all of the Protected Material instead of returning it – unless such
2 Protected Material is an original, in which case, the Receiving Party must obtain the
3 Producing Party’s written consent before destroying such original Protected Material.

4 Whether the Protected Material is returned or destroyed, the Receiving Party
5 must submit a written certification to the Producing Party (and, if not the same person
6 or entity, to the Designating Party) within thirty (30) days of the aforementioned
7 written request by the Designating Party that specifically identifies (by category,
8 where appropriate) all the Protected Material that was returned or destroyed and that
9 affirms that the Receiving Party has not retained any copies, abstracts, compilations,
10 summaries or other forms of reproducing or capturing any of the Protected material
11 (in any medium, including but not limited to any hardcopy, electronic or digital copy,
12 or otherwise).

13 Notwithstanding this provision, Counsel are entitled to retain an archival copy
14 of all pleadings, motion papers, transcripts, legal memoranda filed with the court in
15 this action, as well as any correspondence or attorney work product prepared by
16 Counsel for the Receiving Party, even if such materials contain Protected Material;
17 however, any such archival copies that contain or constitute Protected Material
18 remain subject to this Protective Order as set forth in Section 4 (DURATION),
19 above. This court shall retain jurisdiction in the event that a Designating Party elects
20 to seek court sanctions for violation of this Stipulation and its Order.

21 Any violation of this Order may be punished by any and all appropriate
22 measures including, without limitation, contempt proceedings and/or monetary
23 sanctions.

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1 **IT IS SO STIPULATED.**
2

3 DATED: March 16, 2023

4
5
6 **THE LAW OFFICES OF CHRISTIAN**
7 **CONTRERAS**

8 By: /s/ Christian Contreras
9

10 Christian Contreras
11 Attorneys for Plaintiff,
12 MARIA DEL CARMEN FLORES

13 DATED: March 16, 2023

14 **MANNING & KASS**
15 **ELLROD, RAMIREZ, TRESTER LLP**

16 By: /s/ Kayleigh A. Andersen
17

18 Mildred K. O'Linn
19 Kayleigh A. Andersen
20 Attorneys for Defendants,
21 CITY OF SANTA MONICA, STEVEN
22 HOLLOWELL, CARLOS MADRID,
23 MAURICE COCHEE, and CHIEF
24 RAMON BATISTA

25 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.
26

27 DATED: March 17, 2023

28 

29 HON. PATRICIA DONAHUE
30 United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full
4 name], of _____ [print or type full address], declare
5 under penalty of perjury that I have read in its entirety and understand the Stipulated
6 Protective Order that was issued by the United States District Court for the Central
7 District of California on _____ [date] in the case of **Maria Del Carmen**
8 **Flores v. City of Santa Monica, et al., Case No. 2:23-cv-00043-SB-PD.** I agree to
9 comply with and to be bound by all the terms of this Stipulated Protective Order and
10 I understand and acknowledge that failure to so comply could expose me to sanctions
11 and punishment in the nature of contempt. I solemnly promise that I will not disclose
12 in any manner any information or item that is subject to this Stipulated Protective
13 Order to any person or entity except in strict compliance with the provisions of this
14 Order.

15 I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action. I hereby appoint _____ [print
19 or type full name] of _____ [print or type
20 full address and telephone number] as my California agent for service of process
21 in connection with this action or any proceedings related to enforcement of this
22 Stipulated Protective Order.

23 | Date:

24 | City and State where sworn and signed: _____

25 | Printed name:

26 | Signature: _____